

103^D CONGRESS
2^D SESSION

S. 1827

To terminate the North American Free Trade Agreement as it applies to Canada and the United States-Canada Free-Trade Agreement and to impose additional duties on grain imported from Canada, until the United States and Canada renegotiate the provisions of the Agreements regarding the importation of Canadian grain.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 25), 1994

Mr. DORGAN (for himself, Mr. CONRAD, Mr. DASCHLE, Mr. PRESSLER, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To terminate the North American Free Trade Agreement as it applies to Canada and the United States-Canada Free-Trade Agreement and to impose additional duties on grain imported from Canada, until the United States and Canada renegotiate the provisions of the Agreements regarding the importation of Canadian grain.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States-Canada
5 Grain Trade Settlement Act of 1994”.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) As a result of unfair and incomplete provi-
4 sions in the United States-Canada Free-Trade
5 Agreement (hereafter referred to as the “CFTA”) and the North American Free Trade Agreement
6 (hereafter referred to as the “NAFTA”) affecting
7 exports of Canadian grain to the United States—

8 (A) Canadian exports of durum wheat,
9 spring wheat, and barley have increased beyond
10 the level that such exports can be absorbed into
11 the United States market;

12 (B) these exports have depressed domestic
13 grain prices, causing severe financial losses to
14 American farmers and increasing the costs and
15 difficulties of implementing domestic farmer
16 support programs; and

17 (C) Canadian grain exports continue to in-
18 crease without bounds, increasing the damage
19 to United States farmers each year.

20 (2) The Congress approved the CFTA subject
21 to—

22 (A) the statement in the Statement of Ad-
23 ministrative Action that the United States
24 would “pursue consultations with Canada re-
25 garding the price setting policy of the CWB
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(Canadian Wheat Board) as it affects goods exported to the United States . . . directed toward establishing a method to determine the price at which the CWB is selling agricultural goods to the United States and the CWB's acquisition price for those goods"; and

(B) the provision of the implementing legislation requiring that "the President will enter into immediate consultation with the Government of Canada to obtain the exclusion from the transport rates established under Canada's Western Grain Transportation Act of agricultural goods that originate in Canada and are shipped via east coast ports for consumption in the United States,"

yet to date there has been no resolution of these consultations.

(3) United States trade negotiators agreed not to reexamine the CFTA while negotiating the NAFTA based on the assumption that the Uruguay Round talks of the General Agreement on Tariffs and Trade would address the subsidy and dispute resolution concerns and would be completed before the enactment of the NAFTA.

1 (4) The failure of the United States success-
 2 fully to pursue the consultations described in para-
 3 graph (2) led to a flawed binational panel decision
 4 that renders meaningless the plain language of Arti-
 5 cle 701(3) of the CFTA (which was incorporated by
 6 reference in the NAFTA), which states that “Nei-
 7 ther Party, including any public entity that it estab-
 8 lishes or maintains, shall sell agricultural goods for
 9 export to the territory of the other Party at a price
 10 below the acquisition price of the goods plus any
 11 storage, handling or other cost incurred by it with
 12 respect to those goods.”.

13 (5) Imports of wheat and barley have increased
 14 significantly as a result of substantial changes in
 15 Canada’s support programs. Some of the changes
 16 were made with declared intent to increase imports
 17 to the United States. The increases in imports con-
 18 stitutes grounds under Article 705.5 of the CFTA
 19 for use of import restrictions by the United States.

20 **SEC. 3. TERMINATION OF AGREEMENTS AND IMPOSITION**
 21 **OF ADDITIONAL DUTIES.**

22 (a) IN GENERAL.—

23 (1) TERMINATION OF NAFTA AND CFTA.—Not-
 24 withstanding any other provision of law, the Presi-
 25 dent shall provide written notification to the Govern-

1 ment of Canada of the intent of the United States
2 to terminate the CFTA and the NAFTA, as such
3 agreement applies to Canada, unless the President
4 provides the Congress with a certification described
5 in subsection (c). Such notification shall be given not
6 later than the date that is 6 months after the date
7 of the enactment of this Act and shall provide that
8 the agreements shall terminate not later than 1 year
9 after the date of the enactment of this Act in ac-
10 cordance with the terms and conditions of the re-
11 spective agreements.

12 (2) IMPOSITION OF DUTY.—Notwithstanding
13 any other provision of law, the President shall imme-
14 diately impose a duty at the rate of 50 percent ad
15 valorem or the specific rate equivalent to articles im-
16 ported from Canada described in the following head-
17 ings of the Harmonized Tariff Schedule of the
18 United States:

19 (A) heading 1001.10.00 (relating to durum
20 wheat),

21 (B) heading 1001.90.10 (relating to seed
22 wheat),

23 (C) heading 1001.90.20 (relating to other
24 wheat),

1 (D) heading 1003.00.20 (relating to malt-
2 ing barley), and

3 (E) heading 1003.00.40 (relating to other
4 barley).

5 (b) NEGOTIATIONS.—The President shall imme-
6 diately pursue negotiations with the Government of
7 Canada to—

8 (1) establish a method for determining the sale
9 price of Canadian grain exports to the United States
10 and the Canadian Wheat Board’s acquisition price
11 for such grain;

12 (2) establish procedures for obtaining the data
13 necessary to implement the method described in
14 paragraph (1);

15 (3) eliminate all transportation subsidies on ag-
16 ricultural goods that originate in Canada and are
17 shipped for consumption in the United States; and

18 (4) clarify the meaning of the term “acquisition
19 price” in Article 701(3) of the CFTA (and any other
20 provision accompanying such agreement or the
21 NAFTA) so that such term includes—

22 (A) the value of any transportation subsidy
23 applied to grain entering the United States;

24 (B) all direct payments to producers made
25 by the Canadian Wheat Board or any govern-

1 ment agency for grain entering the United
2 States; and

3 (C) any other payments or subsidy in-
4 curred by the Canadian Wheat Board, any gov-
5 ernment agency, or any private interest in the
6 acquisition, handling, storage, and transpor-
7 tation of the grain.

8 (c) CERTIFICATION BY THE PRESIDENT.—At such
9 time as the President certifies to the Congress that the
10 Government of Canada has entered into an agreement
11 with the United States with respect to the requirements
12 described in subsection (b), the President may terminate
13 the duties imposed under subsection (a)(1) and take ac-
14 tion to reinstate the CFTA and the NAFTA with respect
15 to Canada. An agreement entered into under this Act shall
16 supersede the corresponding provisions of the CFTA and
17 the NAFTA and shall be incorporated in and become part
18 of such agreements as reinstated.

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